

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

Applicant respectfully notes that the present application has been prematurely placed under final rejection. As such, pursuant to M.P.E.P. §706.07(c), withdrawal of the finality of the rejection is requested for at least the following reasons.

For a new ground of rejection to be applied as part of a final rejection, M.P.E.P. §706.07(a) requires that the new ground of rejection either be necessitated by applicant's amendment of the claims or be based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. §1.97(c) with the fee set forth in 37 C.F.R. §1.17(p). Neither of these conditions exists in the present case.

The Patent Office has made a new ground of rejection in the outstanding Official Action with respect to claims 5 and 7.¹ It is apparent that such new ground of rejection was not necessitated by Applicant's amendment in light of the fact that claims 5 and 7 were previously amended merely to place such claims in independent form. In addition, the documents applied in such new ground of rejection were not submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. §1.97(c).

Accordingly, for at least the above reasons, withdrawal of the finality of the rejection is respectfully requested.

By the above amendments, claims 6 and 10 have been canceled without prejudice or disclaimer. Claims 5 and 9 have been amended to incorporate the features of canceled claims 6 and 10, respectively. Claim 7 has been amended to depend from claim 5, and for

¹ The Official Action at pages 2 and 8 states that the Patent Office has withdrawn the previous §103(a) rejections of claims 5-15, and has set forth new grounds of rejection.

clarification purposes. Each of claims 11-13 has been amended to depend from claim 9 in view of the cancellation of claim 10. Claim 14 has been amended for clarification to recite the features of canceled claim 6. Entry of the above amendments is proper in light of the fact that the present application has been prematurely placed under final rejection. Moreover, Applicant submits that entry of the above amendments is proper under M.P.E.P. §714.12, because they place the application in condition for allowance or in better form for appeal.

In the Official Action, claims 5-8, 14 and 15 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,747,121 (*Okazaki et al*) in view of U.S. Patent No. 6,410,130 (*Schuhmacher et al*). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claim 5 is directed to an optical compensatory sheet comprising a transparent support and an optically anisotropic layer, wherein the optically anisotropic layer is formed from liquid crystal molecules and monomers having four or more double bonds, said monomers being polymerized to form a cross-linked polymer in the optically anisotropic layer, wherein the liquid crystal molecules are discotic liquid crystal molecules, and wherein each of the discotic liquid crystal molecules has a double bond, said discotic liquid crystal molecules and the monomers being co-polymerized in the optically anisotropic layer.

Claim 14 is directed to a liquid crystal display comprising two polarizing plates, a liquid crystal cell provided between the plates, and at least one optical compensatory sheet placed between the cell and at least one of the plates, said optical compensatory sheet comprising a transparent support and an optically anisotropic layer, wherein the optically anisotropic layer is formed from liquid crystal molecules and monomers having four or more double bonds, said monomers being polymerized to form a polymer in the optically anisotropic layer, wherein the liquid crystal molecules are discotic liquid crystal molecules,

and wherein each of the discotic liquid crystal molecules has a double bond, said discotic liquid crystal molecules and the monomers being co-polymerized in the optically anisotropic layer.

Okazaki et al relates to an element which can be utilized for the preparation of optical elements such as an optical compensatory sheet and a liquid crystal cell (col. 1, lines 5-7).

Okazaki et al does not disclose or suggest each feature recited in claims 5 and 14. For example, *Okazaki et al* does not disclose or suggest an optically anisotropic layer formed from liquid crystal molecules and monomers having four or more double bonds, said discotic liquid crystal molecules and the monomers being co-polymerized in the optically anisotropic layer, as recited in claims 5 and 14.² With respect to such feature, the Patent Office has asserted that *Okazaki et al* discloses that a discotic liquid crystalline compound having a double bond is co-polymerized with the "other compound" optionally present in the optically anisotropic layer (Official Action at page 3). Applicant respectfully but strenuously disagrees with the Patent Office's position.

In this regard, Applicant notes that *Okazaki et al* discloses that a double bond-containing functional group of the liquid crystalline compound reacts with a functional group of a polymer present in an orientation layer (col. 36, line 66 to col. 37, line 6). *Okazaki et al* further discloses that such reaction enables the optically anisotropic layer and the orientation layer to be chemically bonded to form a durable optical compensatory sheet (col. 37, lines 3-7). Clearly, *Okazaki et al* is concerned with chemically bonding the liquid crystalline compound with a polymer in the orientation layer, and not with the "other compound" optionally present in the optically anisotropic layer. Simply put, *Okazaki et al* has no disclosure or suggestion that the liquid crystalline compound thereof is co-polymerized with

² As discussed above, each of claims 5 and 14 has been amended to incorporate the features of canceled claim 6.

such "other compound" as suggested by the Patent Office. Moreover, absent an improper resort to Applicant's own disclosure, one of ordinary skill in the art would not have been motivated to modify *Okazaki et al* to employ discotic liquid crystal molecules and monomers having four or more double bonds being co-polymerized in an optically anisotropic layer, as presently claimed in claims 5 and 14.

Furthermore, as acknowledged at page 3 of the Official Action, *Okazaki et al* does not disclose or suggest an optically anisotropic layer formed from, *inter alia*, monomers having four or more double bonds as recited in each of claims 5 and 14.

Schuhmacher et al relates to cholesteric special-effect layers, to processes for their preparation and to their use (col. 1, lines 5-7). *Schuhmacher et al* discloses that the pigments thereof can be applied to or incorporated into banknotes, cheque cards, other cashless means of payment or ID (col. 46, lines 39-41).

Schuhmacher et al fails to cure the above-described deficiencies of *Okazaki et al*. In this regard, the Patent Office has relied on *Schuhmacher et al* for disclosing binders which are monomeric agents which have two or more crosslinkable groups (Official Action at page 3). However, like *Okazaki et al*, *Schuhmacher et al* fails to disclose or suggest discotic liquid crystal molecules and monomers being co-polymerized in an optically anisotropic layer, as recited in claims 5 and 14.

Furthermore, *Schuhmacher et al* discloses that the binders thereof are used to bind the absorption pigments disclosed therein (col. 43, lines 56-58). In light of the fact that the absorption pigments disclosed by *Schuhmacher et al* are completely different from the liquid crystal compounds of *Okazaki et al*, one of ordinary skill in the art would not have been motivated to modify *Okazaki et al* by employing the binders disclosed by *Schuhmacher et al* in the manner suggested by the Patent Office.

For at least the above reasons, it is apparent that no *prima facie* case of obviousness exists in view of *Okazaki et al* and *Schuhmacher et al*. Accordingly, withdrawal of the above §103(a) rejection is respectfully requested.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being obvious over *Okazaki et al* in view of *Schuhmacher et al* as evidenced by U.S. Patent No. 6,476,892 (*Aminaka*). Without addressing the propriety of the Examiner's comments concerning this rejection, and in an effort to expedite prosecution, the features of claim 10 (which has not been rejected in the present rejection), have been incorporated into claim 9 as discussed above. In light of such amendment, it is apparent that the present §103(a) rejection is moot. For at least this reason, withdrawal of such rejection is respectfully requested.

Claims 9-13 stand rejected under 35 U.S.C. §103(a) as being obvious over *Okazaki et al* in view of *Schuhmacher et al* and *Aminaka*. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claim 9 is directed to an optical compensatory sheet comprising a transparent support and an optically anisotropic layer, wherein the optically anisotropic layer is formed from liquid crystal molecules and monomers having four or more double bonds, said monomers being polymerized to form a cross-linked polymer in the optically anisotropic layer, wherein the transparent support has a retardation value in plane in the range of 0 to 50 nm and a retardation value along a thickness direction in the range of 70 to 400 nm, and wherein the transparent support is a cellulose acetate film comprising cellulose acetate having an acetic acid content in the range of 59.0 to 61.5%.

Okazaki et al fails to disclose or suggest each feature recited in claim 9. In this regard, as discussed above, claim 9 has been amended to incorporate the features of canceled claim 10. The Patent Office has acknowledged that *Okazaki et al* fails to disclose or suggest

that the transparent support is a cellulose acetate film comprising cellulose acetate having an acetic acid content in the range of 59.0 to 61.5%, as now recited in claim 9 (Official Action at page 7).

The present application claims the benefit of foreign priority of Japanese Application No. 2001-014833 (JP '833), filed January 23, 2001. In order to perfect such foreign priority claim, attached for the Examiner's consideration is a verified English translation of JP '833. Applicant notes that support for claims 9 and 11-13 of the present application can be found in JP '833 at least at pages 1 and 2 of the translation. It is noted that in light of the perfected foreign priority claim, *Aminaka* has been removed from qualifying as §102(e) prior art. In this regard, the January 23, 2001 filing date of JP '833 predates the March 5, 2001 §102(e) date of *Aminaka*. Applicant also notes that the filing date of JP '833 predates the October 4, 2001 publication date of U.S. Patent Application Publication No. 2001/0026338 A1 which is listed in the "Prior Publication Data" section of *Aminaka*.

Accordingly, for at least the above reasons, it is apparent that *Aminaka* fails to cure the above-described deficiencies of *Okazaki et al.*

Schuhmacher et al also fails to cure the above-described deficiencies of *Okazaki et al.* In this regard, the Patent Office has relied on *Schuhmacher et al* for disclosing binders that preferably are monomers which have two or more crosslinkable groups (Official Action at page 6). However, like *Okazaki et al*, *Schuhmacher et al* fails to disclose or suggest that the transparent support is a cellulose acetate film comprising cellulose acetate having an acetic acid content in the range of 59.0 to 61.5%, as recited in claim 9.

For at least the above reasons, it is apparent that no *prima facie* case of obviousness exists. Accordingly, withdrawal of the above §103(a) rejection is respectfully requested.

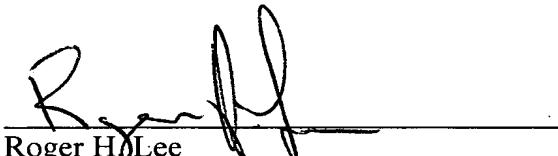
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: December 15, 2004

By:



Roger H. Lee
Registration No. 46,317

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620